

10 | VIDEO TAPE DEPOSITION OF LARRY HAUSMAN

11 Taken by the Defendant on August 9, 2018 at the offices of Kreis,
12 Enderle, Hudgins & Borsos, P.C., One West Michigan Avenue, Battle
13 Creek, Michigan, at 10:00 a.m.

14

15 | APPEARANCES:

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20 One West Michigan Avenue
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22 Also Present: Howard Holt, Martin Erskine, Daniel Booher, Marisol Saucedo

23 REPORTED BY: Ms. Mary B. Howland, CSR0078, CM
Certified Shorthand Reporter
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<p>1 TABLE OF CONTENTS</p> <p>2 WITNESS:</p> <p>3 LARRY HAUSMAN</p> <p>4 Examination by Mr. Kreter 4</p> <p>5 Examination by Mr. Alvarez 38</p> <p>6 Further examination by Mr. Kreter 51</p> <p>7</p> <p>8</p> <p>9</p> <p>10 EXHIBITS:</p> <p>11 (None marked.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 Mr. Alvarez, do you have any objections to the</p> <p>2 notice of this deposition?</p> <p>3 MR. ALVAREZ: No objection to the notice.</p> <p>4 MR. KRETER: Thank you. Any other objections?</p> <p>5 MR. ALVAREZ: No objection.</p> <p>6 LARRY HAUSMAN,</p> <p>7 (At 10:14 a.m., sworn as a witness, testified as</p> <p>8 follows)</p> <p>9 BY MR. KRETER:</p> <p>10 Q Thank you. For the record can you please state your full</p> <p>11 name?</p> <p>12 A Larry Joseph Hausman.</p> <p>13 Q And what is your current address?</p> <p>14 A 12435 Sonoma Road, Battle Creek, Michigan.</p> <p>15 Q What is your current occupation?</p> <p>16 A Retired.</p> <p>17 Q Trial in this case is scheduled for August 22nd and</p> <p>18 August 23rd. Are you in the State of Michigan at that time?</p> <p>19 A No, I'm out of the state. Will be in the Carolinas at that</p> <p>20 time.</p> <p>21 Q And has that been a trip that has been scheduled for some</p> <p>22 time?</p> <p>23 A Yes, about six months.</p> <p>24 Q Did you ever work for the City of Battle Creek?</p> <p>25 A Yes, I did.</p>
<p>1 Battle Creek, Michigan</p> <p>2 Thursday, August 9, 2018 - 10:10 a.m.</p> <p>3 VIDEO OPERATOR: August 9th, 2018. We're on the</p> <p>4 record at 10:13 a.m. United States District Court for the</p> <p>5 Western District of Michigan, Southern Division, case number</p> <p>6 115-cv-00931. Howard Holt and Martin Erskine, plaintiffs,</p> <p>7 versus City of Battle Creek, Michigan, defendants.</p> <p>8 We're located in Battle Creek, Michigan. We're here</p> <p>9 to take the videotape deposition of Mr. Larry Hausman.</p> <p>10 Will the attorneys please identify themselves?</p> <p>11 MR. ALVAREZ: Robert Anthony Alvarez, from the</p> <p>12 Avanti Law Group on behalf of the plaintiffs.</p> <p>13 MR. KRETER: Mark Kreter of Kreis Enderle on behalf</p> <p>14 of defendant City of Battle Creek.</p> <p>15 VIDEO OPERATOR: Will the court reporter please</p> <p>16 swear in the witness.</p> <p>17 REPORTER: Do you swear or affirm the testimony you</p> <p>18 are about to give will be the truth, the whole truth and</p> <p>19 nothing but the truth, so help you God?</p> <p>20 THE WITNESS: I do.</p> <p>21 MR. KRETER: Let the record reflect this is the time</p> <p>22 and place for the taking of the de bene esse deposition of</p> <p>23 Larry Hausman. It is intended that this deposition be used in</p> <p>24 lieu of Mr. Hausman's live testimony at trial, which is</p> <p>25 scheduled for August 22nd and August 23rd.</p>	<p>1 Q In what capacity?</p> <p>2 A I was -- I worked for the City of Battle Creek in the capacity</p> <p>3 of the Fire Lieutenant and the Fire Chief.</p> <p>4 Q Did you work as a firefighter?</p> <p>5 A No, I did not work for the City of Battle Creek as a</p> <p>6 firefighter. I worked for Battle Creek Township as a</p> <p>7 firefighter prior to the merger of the City of Battle Creek.</p> <p>8 Q When did you first become employed with the City of Battle</p> <p>9 Creek?</p> <p>10 A With the City of Battle Creek was January 1st, 1983, that's</p> <p>11 when the City of Battle Creek and Battle Creek Township</p> <p>12 merged.</p> <p>13 Q And prior to that time you worked for the Township?</p> <p>14 A I worked for Battle Creek Township. My date of employment</p> <p>15 there was August 26, 1973.</p> <p>16 Q And what did you do for the Township?</p> <p>17 A I was a firefighter then was promoted to Lieutenant.</p> <p>18 Q And then when you started with the City of Battle Creek in</p> <p>19 1983, what was your position?</p> <p>20 A I was a Lieutenant Line Officer.</p> <p>21 Q Did you progress from there?</p> <p>22 A I was promoted to Fire Chief in June 29th, 1997.</p> <p>23 Q And how long did you serve as Fire Chief?</p> <p>24 A I retired April 26th, 2013.</p> <p>25 Q During your tenure as Fire Chief, did you have an opportunity</p>

1 to work with Howard Holt and Martin Erskine?
 2 A Yes, I did. I had the opportunity to work with both of them.
 3 Q And did you work with them before they became Battalion
 4 Chiefs?
 5 A Yes, I did.
 6 Q How long have you known Mr. Holt and Mr. Erskine?
 7 A Well, since the day they were hired and I think I can't give
 8 you those dates. But I would say probably -- Howard was
 9 probably around '83 or '84 and Marty don't know what year for
 10 sure. I can't give you.
 11 Q Were you involved with their promotion to Battalion Chiefs?
 12 A Yes, I was.
 13 Q Could you explain that process to me?
 14 A Well, promotional procedure in this -- City of Battle Creek is
 15 governed under Act 78. And at which time they were eligible,
 16 ripe for Battalion Chief because they had two years in the
 17 next lower grade which is Fire Captain. So they sit down and
 18 they write a competitive exam. Upon passing that exam, they
 19 go before an Oral Board. And then after the Oral Board, then
 20 their seniority posts come into play. And that comprises a
 21 list, if they have a passing score, which they both did, and
 22 then they go on a list to be picked from. Under the Civil
 23 Service Rules that were negotiated by the City of Battle Creek
 24 some years ago, I can pick from a group of three, the top
 25 three. So then I make a recommendation on who I would like to

1 Q Did you discuss with them at that time, the standby
 2 requirements?
 3 A Yes. At that time we had no -- we no longer had 53 hour
 4 Battalion Chiefs, we have gone to the 40 hour Battalion
 5 Chiefs. So they knew we were on a three week rotation. I was
 6 in that rotation. So every third week we were on-call after
 7 5 o'clock in the evening and on the weekends --
 8 Q So --
 9 A -- for the purpose of responding to structure fires.
 10 Q So explain what the 53 hour week was.
 11 A Prior to going back to having 40 hour Battalion Chiefs, we had
 12 a 53 hour Battalion Chief who worked 24 hour shifts. You had
 13 an A shift, a B shift, and a C shift. So you had a Battalion
 14 Chief on duty 24 hours around the clock was assigned to
 15 Station 1. So they worked 24 hours and they had 48 hours off.
 16 They worked 24 hours and they had 48 hours off. So every
 17 third day they were at the fire station. And that just
 18 repeated. There was a Kelly Day in there. So every -- there
 19 was allowed a Kelly Day every certain period. But it was
 20 24/48.
 21 Q What's a Kelly Day?
 22 A Kelly Day is to comply with the state law for hours. And it's
 23 a day off.
 24 Q All right. Were you involved in the decision to switch from
 25 53 hours to 40 hours?

1 pick to the City Manager, who ultimately is the appointing
 2 authority in the City of Battle Creek. At which time he will
 3 send them -- if he agrees with my decision, will send them a
 4 letter of employment. So I did pick both Battalion Chief Holt
 5 and Erskine to be Battalion Chiefs.
 6 Q And that recommendation was approved by the City Manager at
 7 the time?
 8 A Yes, it was.
 9 Q Is there a reason the City Manager has that approval
 10 authority?
 11 A Under Act 78 he is the appointing authority under the law.
 12 Q So it's your role to make a recommendation?
 13 A It's my role to make a recommendation, yes.
 14 Q When you chose Mr. Holt and Mr. Erskine, did you explain to
 15 them what their job duties would be?
 16 A Yes. They were both very well aware of what their
 17 responsibilities in the job were. They were both Fire
 18 Captains, were very knowledgeable people, very good employees
 19 of the City of Battle Creek. And we had -- we had -- I had an
 20 interview with both of them prior to taking the job in
 21 reference to the roles and the responsibilities. My
 22 expectations of what I -- what I wanted and defined what their
 23 -- the duties are different for both of them. And that was
 24 all explained to them. And they both accepted the position
 25 and fulfilled the role very well.

1 A Yes, I was. The City has some financial constraints going on
 2 at the time. We, as times changed, there is more paperwork,
 3 there is more records we have to keep, there is more
 4 administrative duties. And I did not have an Assistant Chief.
 5 And when I had 53 hour Battalion Chief, they worked as I
 6 explained. They would work Monday, Thursday, Sunday,
 7 Wednesday, Saturday. There was issues with continuity
 8 sometimes. There was issues with me having face time with
 9 them. In one week they only worked Wednesday. So I seen we
 10 had three different shifts, at that time there was no way the
 11 City was going to add personnel, so I had to find a way to
 12 have somebody who could do more administrative duties and be
 13 there every day and I also thought it would help continuity,
 14 because I had it divided up by suppression and administrative
 15 tasks. So one was in charge of suppression and one was in
 16 charge of administrative. And then all three of us were there
 17 every day. So we could have discussion about training across
 18 the board, you know, I had one person in charge of the
 19 suppression division. And so they were there Monday through
 20 Friday. I was there Monday through Friday. So every -- we
 21 were there every day together as opposed to me seeing them on
 22 a Wednesday one week, and a Tuesday and a Friday the next week
 23 if they didn't take a vacation or something. So it was done
 24 for financial reasons and it was also done for reasons of
 25 there was administrative work all the time.

1 Q From your standpoint, it was more efficient?

2 A It was more -- yes, it was definitely more efficient. And

3 then it had efficiencies throughout the department. I had

4 some very good employees in those roles and it was a very

5 positive experience.

6 Q When was this implemented, do you recall?

7 A I think about 2004, but -- I believe about 2004. I can't

8 positively tell you the date.

9 Q Do you know if this was negotiated?

10 A Yes. The Battalion Chiefs are not -- they are not part of the

11 union, but they are recognized by the City of Battle Creek as

12 a -- for negotiating purposes as an organization. So that was

13 negotiated. They have the contract, and that contract had to

14 be renegotiated. And the contract was renegotiated with the

15 City to reflect the hours and the change in pay. The pay rate

16 was changed. Hours were changed. But yes, it was negotiated

17 with the City of Battle Creek.

18 Q And were you involved with those negotiations?

19 A Yes, I was.

20 Q Was Mr. Claggett also involved?

21 A Yes, he was.

22 Q Did you discuss with -- now, Mr. Holt became a Battalion Chief

23 first, correct?

24 A Yes. Howard was promoted prior to.

25 Q And Mr. Erskine, I think, came on in 2012?

1 charge of many administrative functions and also was in charge

2 of fire prevention training division.

3 Q Mr. Holt was in charge of suppression?

4 A Yes, he was.

5 Q And Mr. Erskine in charge of administrative.

6 A He was Administrative Battalion Chief in charge of

7 responsibilities, fire prevention training.

8 Q Were they part of the fire department management team?

9 A Yes. They were considered to be part of the battalion team.

10 The three of us were the management team for the City fire

11 department. The only non-union members in the organization is

12 the three of us.

13 Q How many members were in the fire department on average?

14 A Ninety. Ninety. In the ninety range.

15 Q How many stations?

16 A Five active stations.

17 Q And that would have held true when you retired about 2000 --

18 in 2013?

19 A That's what they had and then they had -- they had the airport

20 after that.

21 Q Who did you report to?

22 A I reported directly to the City Manager.

23 Q I'll show you what has -- is listed as Defendant Exhibit G.

24 Can you take a look at that and identify it for me, if you

25 can?

1 A I guess that would be about -- yes, that would be right, yes.

2 Q Did you discuss with both of them the standby requirements

3 before they accepted the position?

4 MR. ALVAREZ: Objection. Asked and answered.

5 BY MR. KRETER:

6 Q Okay. Go ahead.

7 A Yes. That discussion was had with both parties. The

8 expectation that, and I would include myself in that three

9 week in the rotation. So every third week they would be

10 on-call and expected to respond to structure fires after hours

11 and on weekends.

12 Q Did they raise any issues or concerns when you initially

13 discussed it with them?

14 A No, they did not. They were both very receptive and filled

15 the role very well.

16 Q What is the organizational structure of the fire department?

17 A Starts out with probationary firefighter, firefighter,

18 Lieutenant, Captain, Battalion Chief, Chief.

19 Q And do the Battalion Chiefs report directly to you?

20 A Yes, they both report directly to me, yes.

21 Q And you said there are two -- two Battalion Chiefs?

22 A Correct.

23 Q And you said suppression is one?

24 A One was in charge of the suppression division; one was in

25 charge -- the title was Administrative Battalion Chief in

1 A This is a Departmental Directive written by myself. This is

2 directed to all personnel. This defines general

3 responsibilities for myself, Administrative Battalion Chief,

4 Suppression Battalion Chief. This defines how they contact us

5 after hours if needed, our contact numbers are here, different

6 things that we are responsible or I might be responsible for

7 after hours.

8 Q I'd like to discuss the responsibilities of you and the

9 Battalion Chiefs. I'd like to start with you. What were your

10 responsibilities as Fire Chief?

11 A Well, first of all, my responsibility as Fire Chief were

12 overall general operation of the department. I was

13 responsible for hiring. I was responsible for apparatus

14 purchases. I was responsible for apparatus maintenance. I

15 had two direct reports, being the Battalion Chiefs. For a

16 period of time I was in charge of Central Dispatch. I handled

17 most of the workman's comp cases for the department. I was

18 most of the -- a lot of the public relations for the

19 department was my responsibility. Budgeting was my

20 responsibility, to develop a budget, make sure the budget was

21 administered throughout the year. I guess, you know,

22 overseeing of basically the whole department.

23 Q So you were responsible for the fire department?

24 A Yes, I was.

25 Q And what roles, and we will start with the Suppression

<p>1 Battalion Chief. What was the role of the Suppression 2 Battalion Chief?</p> <p>3 A Well, he was the immediate Supervisor for all of the station 4 officers.</p> <p>5 Q And how many station officers were there?</p> <p>6 A We had about twenty-seven officers.</p> <p>7 Q Okay.</p> <p>8 A They were a direct report to him, the station officers. The 9 Lieutenants and the Captains were a direct report. He was 10 responsible for maintenance and maintaining all of the SCBA, 11 self-contained breathing apparatus. His responsibility was 12 maintenance of the station, make sure the stations were 13 maintained. He was responsible for facilitating necessary 14 supplies for the department. He was responsible for purchase 15 and maintenance of uniforms, for all personnel.</p> <p>16 Facility issues were his responsibility, to see to 17 it that they got repaired in a timely fashion or provide the 18 people with the necessary means to take care of that.</p> <p>19 Q And those facilities would be the stations?</p> <p>20 A Yes. And maintenance of standards, which means that the 21 officers and the personnel are, you know, adhering 22 uniform-wise, dress code-wise, grooming standards. He was in 23 charge of twenty-seven people were direct reports to him.</p> <p>24 Nine people per day.</p> <p>25 Q Mr. Holt testified in his deposition that essentially all the</p>	<p>1 in writing. If the same offense is repeated, then it will go 2 to a written. Then if the same offense is repeated again, it 3 could possibly go to time off. He's responsible for the 4 follow up of that and to make sure that is given. The oral 5 and the written. If it goes to time off, then that becomes -- 6 goes to the City Manager through me. I never operate in a 7 vacuum. If discipline was going to be given to somebody, 8 Battalion Chief Holt would have a conference with me. I 9 generally knew that before it happened. But he was the person 10 that would issue the majority of the discipline of the Station 11 Officers. The firefighters, their discipline would be given 12 by the Station Officer, because that's who their immediate 13 supervisor is, is the Station Officer.</p> <p>14 Q Would their level of discipline ever reach Mr. Holt, the 15 Suppression Chief?</p> <p>16 A Yes. Yes. He would know that that was happening.</p> <p>17 Q And when the officer's level of discipline would reach time 18 off and that was discussed, you said, with the City Manager or 19 Human Relations?</p> <p>20 A That goes through Mr. Claggett's office, Employee Relations 21 and then ultimately it has to go to City Manager's office for 22 approval before I can issue the time off.</p> <p>23 Q Would Mr. Holt's recommendations be given any particular 24 weight?</p> <p>25 A Oh, absolutely. Absolutely. Yes. It would be given a lot of</p>
<p>1 firefighters worked for him. Would that be fair to say?</p> <p>2 A That is fair to say, yes. That is fair to say, yes.</p> <p>3 Q That was --</p> <p>4 A The Suppression Division did report to him. If a firefighter 5 had a problem that he didn't want to deal with his immediate 6 supervisor, then Lieutenant Chief Holt was the person he was 7 going to go to, yes. He was in charge of that division.</p> <p>8 Q So in addition to the twenty-seven officers, how many 9 firefighters were there?</p> <p>10 A Roughly -- roughly seventy-five.</p> <p>11 Q So he was --</p> <p>12 A Approximately seventy-five -- about sixty.</p> <p>13 Q So the Suppression Battalion Chief would be roughly 14 responsible for a hundred employees?</p> <p>15 A Well, it's not a hundred. It's more in the seventy range.</p> <p>16 Q Okay.</p> <p>17 A Our numbers fluctuated up and down with budget.</p> <p>18 Q Well, I was adding the firefighters with the officers.</p> <p>19 A Yes. It would be more in the seventy-five range now.</p> <p>20 Q Was he involved in the discipline?</p> <p>21 A Yes. He was -- he was if a Station Officer needed discipline, 22 Battalion Chief Holt would be the person to do that, yes.</p> <p>23 Q And how would that process work?</p> <p>24 A Well, depending on the infraction, discipline starts off with 25 an oral confirmed in writing. He would do the oral confirmed</p>	<p>1 weight.</p> <p>2 Q Was there any physical activity involved being a Suppression 3 Chief?</p> <p>4 A Well, very little physical activity. Like I say, there isn't 5 any, as I stated, you know, Battalion Chief Holt was 6 responsible for, you know, purchasing supplies and things like 7 that. So he would, you know, many times go to the store and 8 purchase things. He was in charge of SCBA maintenance, which 9 he had a work station in the second story of Station 1 and 10 had, you know, was up and down stairs a lot with tanks and 11 carrying things like that. So there was the majority, I will 12 say our job, myself and theirs, was administrative functions, 13 you know, management. But there was -- there is some, you 14 know, just Station 1 is not a manned station. It used to be a 15 manned station. When it was a manned station it was much 16 easier for us to come in and grab somebody to do some of those 17 physical things that, as we vacated that station, the three of 18 us would just do. But the majority of our job function was 19 not physical work, it was, you know, management and 20 leadership.</p> <p>21 Q That was the primary responsibility?</p> <p>22 A That's the primary responsibility of the three of us, yes.</p> <p>23 Q The physical work was -- is there for firefighters, company 24 officers.</p> <p>25 Q Was there any -- well, strike that. What percent of time do</p>

1 you believe that the Suppression Chief was actually involved
 2 with fighting fires?
 3 MR. ALVAREZ: Objection. Calls for speculation.
 4 BY MR. KRETER:
 5 Q Do you have -- well, strike that then. Was there any
 6 expectation that the Suppression Chief would actually fight
 7 fires?
 8 MR. ALVAREZ: Objection. Leading question.
 9 BY MR. KRETER:
 10 Q At a fire scene, what was -- if the Suppression Chief was on
 11 scene, on-site, what would his role be?
 12 A Our job as incident commander is to manage, lead and direct.
 13 We are not -- we are not involved in suppression. We are
 14 there to manage, lead and direct. Our responsibility really
 15 is primarily in a vehicle, monitoring the situation, taking
 16 input from the company officers. And we stay in the vehicle
 17 for many reasons. One is we can hear radio traffic better.
 18 We try to pick a focal point where we can see the fire ground.
 19 And then we also have what we call -- we call an on deck. We
 20 have a pool of people who are not assigned to a task at the
 21 time and they will be assigned in front of the command car so
 22 that if something does happen, we had a pool of people there
 23 that we could use. But our job was to monitor radio traffic,
 24 assign tasks based on what the company officers want and need.
 25 So we are there to manage the scene.

1 that, so everybody is operating off the same page for the day.
 2 On that plan of the day, his responsibility to put
 3 the street closures on there and things that may come in from
 4 other departments in the City.
 5 MDCs, which are mobile data computers, he is
 6 responsible for the upgrades of those, making sure that we
 7 have preplans and things that we were trying to develop to put
 8 into those. A preplan is where the fire officers go out and
 9 draw up a plan, certain things in that building on and then we
 10 input that into that so the company officers can look at that.
 11 That was a project that was growing over time as technology
 12 come with us.
 13 Vacation and Kelly changes, firefighters can change
 14 their vacation, their Kelly Day. They can call in and take a
 15 Kelly Day. He's responsible to manage the vacation and Kelly
 16 schedule in the morning.
 17 Q I may have asked this question, but what is a Kelly Day again?
 18 A It's a day assigned to firefighters to compensate for the work
 19 week. It's a day off.
 20 Q What was the extent of the physical activity involved in the
 21 Administrative Battalion Chief?
 22 A I would say far less than probably what the Suppression
 23 Battalion Chief did. I mean the majority of his work was
 24 dealing with people. Very little. Maybe 5 percent of the
 25 time would be anything physical. His job was to administer

1 Q Not physically fight the fire?
 2 A No, we do not physically fight a fire.
 3 Q What were the duties of the Administrative Battalion Chief?
 4 A Well, pretty broad. He was in charge of the training
 5 division, which means he's responsible for making a plan for
 6 training, go over that plan with the training officer to be
 7 instructed. Manage the training officer. He's responsible
 8 for making sure that the necessary continuing Ed credits for
 9 MFR and medical is taken -- we get on an annual basis. There
 10 is certain trainings that we have to meet a mandate on, so it
 11 is his responsibility to make sure that those -- that criteria
 12 is met. It is his responsibility to oversee the HAZMAT team
 13 and somewhat the administration of HAZMAT. Road safety, which
 14 is a device assigned to the apparatus for driving practices.
 15 It's his responsibility to do a monthly download of that,
 16 printout a sheet to see where our drivers are ranked. If they
 17 are below the standard line, then he would take appropriate
 18 necessary action on that.
 19 He would develop the plan of the day. Which the
 20 plan of the day is in the morning. We would -- Battalion
 21 Chief Holt, I might have something for the plan of the day,
 22 but what training is going to take place, whether it be
 23 company level. If there is public relations throughout the
 24 day, he would develop that in the morning. So everybody in
 25 the department could look -- get on a computer and look at

1 the things we just spoke of. And I would have to say other
 2 duties as assigned by the Chief, which some days were many.
 3 Q And again, his job description did not include fighting fires?
 4 A No, his job description does not include firefighting.
 5 Q When you were Fire Chief, on average, do you know how many
 6 structure fires there were in a week?
 7 A Probably average about one to one point five per week. It
 8 would range in the sixty, seventy a year average, structure
 9 fires.
 10 Q And you said that you were on-call or on standby?
 11 A Yes. We had a three week rotation. I took the -- I took the
 12 call duty one week, and then Battalion Chief Holt took it, and
 13 then Battalion Chief Erskine.
 14 Q And can you describe what that week looked like?
 15 A Well, after five -- after 5 o'clock, our normal business day
 16 was over. So then we all disbursed and went home, at which
 17 time then I could either choose to monitor the radio. I was
 18 assigned a portable radio. We were all assigned a vehicle to
 19 drive home. We were also, all had a pager. It is either a
 20 work pager or monitor pager. It's about the size of a cell
 21 phone. Wear it on our -- we can either put that on monitor so
 22 we can hear all the radio traffic that is going on in the
 23 department or we can put it on what we call, if I was going to
 24 go to dinner I was going to go someplace out for the evening
 25 or going to go to church or something, I put it on alert. And

1 then what it does, when we get a reported structure fire which
 2 we are responsible to respond to, we are counted as part of
 3 the manpower, so we have to respond. At that time that thing
 4 would vibrate and then I would know there was a structure fire
 5 coming in. And at that point in time, I have to get up and
 6 dismiss myself from whatever I might be doing and listen for
 7 radio traffic and be prepared to respond.

8 Q All right. So if I understand you correctly, if you went out
 9 to eat, you would not have to leave your radio on to have
 10 everybody hear the radio traffic?

11 A No, it's optional. If I was sitting in a restaurant, you
 12 know, I would always have a portable radio with me, because if
 13 I got up and left -- if you have a structure fire, Central
 14 Dispatch gives us the alarm. At approximately one minute
 15 after the alarm is sounded, they do what they call a radio
 16 check. And what they are doing is they are checking to see if
 17 all units are responding. So the apparatus that is supposed
 18 to be responding will give a radio -- acknowledge a radio
 19 check. And then after that, we acknowledge that we are on the
 20 road. Then the dispatch would know if they have two or three
 21 engines coming, a truck, and an inside command. So I would
 22 have that radio in my presence, and step out and do my radio
 23 check if I wasn't right next to my car. At that time I start
 24 monitoring the radio traffic, because the incident started.
 25 When they dropped the tone, the incident started. So then we

1 A No, there is no expectation the radio was monitored 24/7.
 2 Q You talked about all stations. What is all stations?
 3 A That's -- any time there is a report of a structure fire,
 4 there is an all stations tone given. There is a single
 5 station tone for medicals, car fires, grass fires, other. So
 6 a tone generator, so either they have a single station tone,
 7 then you have an all stations tone. Only time you get an all
 8 stations tone is for structure fires, reported structure
 9 fires. Otherwise all the other stations would be hearing all
 10 the traffic all night of five other stations going out on, you
 11 know, twenty, thirty medicals, so.

12 Q And when you were on-call you were only required to respond to
 13 structure fires?

14 A Yes. Yes. Unless requested by the company officer, if the
 15 company officer had something that he wanted assistance with,
 16 he would get hold of the Duty Chief, which was very rare. But
 17 we, the expectation was we respond to all structure fires,
 18 yes.

19 Q Which would be the all stations tone?

20 A The all stations tone, yes.

21 Q And when you say very rare where you would have to respond to
 22 something other than a structure fire, first what would that
 23 be?

24 A Well, in my case there might be a mutual aide where we are
 25 assisting another department. If an officer had an accident

1 start monitoring the traffic.

2 Q But if you're at an event you don't need the radio on because
 3 you've got --

4 A No, not as long as I had a pager. As long as I had the pager
 5 on and I had it on alert and it was going to vibrate, I knew I
 6 was going to get the alarm. I didn't have to have the radio
 7 on. I didn't. There was no expectation we monitor the radio
 8 is monitored 24/7. There was an expectation we respond 24/7,
 9 but not that we monitor 24/7.

10 Q What about when you were sleeping at night?

11 A When I was sleeping at night, I put my pager next to the bed,
 12 my pager and my radio next to the bed. I put my pager --
 13 there is two different -- there is an alert tone it vibrates
 14 and there is an alert tone that gives you a tone that you're
 15 not going to miss. It covers to all stations. So then I
 16 would just put it on the alert typically, give you an audible,
 17 it breaks the carrier. At that time you get up, get in your
 18 car and respond. So I personally did not have a radio on in
 19 the bedroom. I did have a monitor in part of the house that I
 20 never turned off 24/7 to my choosing. It was just on, but it
 21 did not -- quite frankly I slept through that. I could sleep
 22 through that. But I could not sleep through my pager going
 23 off.

24 Q So there was no requirement that the radio be on when you are
 25 on standby?

1 or a HAZMAT incident or something where they needed
 2 assistance, then they may call for the Duty Chief to come up
 3 and give some assistance. But I would say that that is half
 4 dozen times a year, maybe a dozen.

5 Q Now, what we just talked about responding, that would apply to
 6 anyone on-call, you as Chief and the Battalion Chiefs,
 7 Mr. Holt and Mr. Erskine?

8 A Yes. Yes. The roles for the Duty Chief were the same. I
 9 guess I should define, one thing they did when they were
 10 on-call that I did not do. I never -- I did not do the hiring
 11 in the morning. They did that. When I was on-call one of
 12 them would get up, if they were home on a weekend, get up and
 13 listen to the assignment line and hire overtime. I did not.
 14 But as far as their response, yes, the response was the same.
 15 I responded to all structure fires. They responded to all
 16 structure fires. I responded if I was requested by a Company
 17 Officer.

18 Q When you talk about scheduling, what do you mean?

19 A In the morning -- we have an assignment line. We have a
 20 call-in sick line. So if somebody was to call-in sick and we
 21 were at minimum manpower, a Battalion Chief is going to have
 22 to hire overtime to fill that, to fill that seat if we don't
 23 have enough manpower on duty.

24 Q And that's something the on-call Battalion Chief would do?

25 A Yeah. They did it when they were on-call and then they -- the

1 week I was on-call, they split it up amongst themselves on
 2 duty. And Monday through Friday was done when they come in at
 3 7 o'clock, that person would come in at 7 o'clock. On the
 4 weekend they can do it from home. They can access the call-in
 5 line from a remote access and they can hire from a remote
 6 access too.

7 Q And generally how long would that take?

8 A Well, depends how many people want to work that day. I would
 9 say on an average I would give it 45 minutes I would say on an
 10 average. By the time they -- you know, they got to check the
 11 assignment line. You know, if they need just one person and
 12 they are lucky they call somebody that wants to work, they say
 13 yes, I'll work and then they are good. But if they don't, if
 14 it is the Fourth of July nobody wants to work they are going
 15 to go through a whole shift and then they are going to go back
 16 to the top and they are going to have to order somebody. If
 17 you have to hire four or five people, and you got to hire an
 18 officer and you got to sort through, okay, who do I need to
 19 hire. I got to hire an officer, and I got have a firefighter,
 20 I got to have a driver for this, I got to have a truck
 21 operator. You know, you might get into an hour here. But I'm
 22 going to, I'm just saying on average 45 minutes.

23 Q And could they do that from anywhere?

24 A They could do -- yes, it can be done remotely. They can
 25 access the assignment line remotely and they can do it from

1 the first engine gets on the scene, and they do a size up.
 2 And we are monitoring that size up, we are listening to what
 3 they have. We are listening to dispatch for any additional
 4 information they may tell us, you know, we have had several
 5 calls on this, we got somebody trapped. They are going to
 6 give us additional information as they get it, if they can.
 7 We are monitoring that. And then when the first engine
 8 company gets on the scene, they are going to do a size up.
 9 And then we're creating and looking in our mind, listening and
 10 creating a plan in our mind. We may be -- we may be seven to
 11 ten minutes away from that scene, so but we are still
 12 listening and we are still, you know, formulating a plan. If
 13 it was something that is -- we -- if there is somebody trapped
 14 or something we sense should be done that is not being done by
 15 the Incident Commander, then we will step in and make that
 16 call, send another engine. We are not going to overrule what
 17 they are doing there, it's their scene. First officer on the
 18 scene is the Incident Commander, the next arriving engine will
 19 assume command. And then when we get on the scene, we will
 20 stage our car and assume command of the incident at which time
 21 we take control of the incident.

22 Q And that would be either you or one of the Battalion Chiefs,
 23 whoever was on-call and on the scene?

24 A Yeah. After 5 o'clock, the on-call, during the day, Monday
 25 through Friday, eight to five, the Suppression Battalion Chief

1 their laptop remotely, yes. They have the hiring list in
 2 front of them, which they update daily. So that that hiring
 3 list has to be updated so we are not violating the contract
 4 and hiring the wrong person and we end up paying someone who
 5 didn't work.

6 Q So once you receive the call while you're on standby, you
 7 check in through the radio, correct?

8 A Yes. We receive an all stations tone that goes to all the
 9 stations and then us through either a radio or a pager. Then
 10 after that, the dispatch will do an alarm office check and the
 11 engines that are responsible to respond will go in sequential
 12 order and acknowledge that they are on the road so the
 13 dispatch knows somebody -- we all got the tone, we got the
 14 message. You know, can it fail? Absolutely. It is a very
 15 reliable system, but still. And then after they all
 16 acknowledge they are on the road, then one of us, either Car
 17 1, Car 3 or Car 4, we acknowledge that we are responding also.

18 Q You say Car 1, Car 2, Car 3.

19 A Car 1, Car 3, Car 4. I was Car 1. Suppression Battalion
 20 Chief was Car 3. Administrative Battalion Chief is Car 4.
 21 They are assigned a departmental number.

22 Q And so at that point, everybody is on line so to speak?

23 A Yes. At that time, everybody is hearing the same radio
 24 traffic. We are monitoring for -- we monitored that they were
 25 on the road, we know that they are responding. And then when

1 responded to those alarms. After 5 o'clock the Duty Chief,
 2 whoever was on-call, took those calls. On the weekends,
 3 whoever was on-call took those calls.

4 Q So once you are at the scene, do you ever get out of your
 5 vehicle generally?

6 A Very rare.

7 Q Why is that?

8 A Well, like I said, we stage ourselves to be able to see. We
 9 have an on-deck pool of people in front of us that we can
 10 assign. It's a controlled environment. It's quiet. We may
 11 have somebody talking to us at the window of the car, but we
 12 can, with the windows up, we have to monitor the radio traffic
 13 carefully. If something happens, somebody falls through the
 14 floor, anything like that, we have to be aware of what's going
 15 on in the fire scene at all times. If we get out of the car,
 16 you know, there could be fans running, there could be chain
 17 saws running, it's noisy. And if we are in the vehicle,
 18 everybody knows where we're at. We're there to -- we're there
 19 to manage, lead and direct. That's what our role is. We're
 20 there to manage the scene.

21 Will we ever get out? During a suppression event,
 22 it's -- it would be very rare. After the event is done, we
 23 may be called upon to come inside and, you know, issue some
 24 advice or help for maybe investigation or something. But
 25 primarily our responsibility is Incident Commander in the

1 vehicle.
 2 Q All right. Are you familiar with what's referred to as the
 3 two-in, two-out rule?
 4 A Yes. Two-in, two-out means if you have two firefighters in
 5 the structure, you have to have two firefighters outside the
 6 structure ready to rescue. We have four man engine. I
 7 developed four man engine companies so we complied with
 8 two-in, two-out. That was a change that was made back about
 9 the same time, it was before that, that was maybe in 2000 we
 10 went to four man engine companies so we complied with two-in,
 11 two-out. Prior to that we had three man engine companies, so
 12 you couldn't comply. If you were first on the scene, you
 13 couldn't be compliant with the two-in, two-out, because you
 14 had two firefighters inside, you only had one outside. So in
 15 2000 we made some changes in how we operated and the number of
 16 engines that we had. So we had four man engine companies, so
 17 when you pulled up on the scene you had two people in two
 18 people out. If something happened you could affect a rescue
 19 of your people.
 20 Q That stayed that way through your tenure?
 21 A Yes.
 22 Q Did you, in the command center or the Battalion Chiefs if they
 23 were in the command center of the car, did they count for that
 24 two-in, two-out rule?
 25 A No. We could count towards that, yes. Did we -- did we ever

1 Q And where was that kept?
 2 A In the back of our cars.
 3 Q Did you ever use yours?
 4 A Very rarely. It was still quite white when I retired. It
 5 would be rare that I would need turnout gear. If we, like I
 6 stated, if I was after the situation was brought under
 7 control, if they wanted me to come inside, if it was still
 8 what I considered a hot zone, then I may put my turnout gear
 9 on. But for the most part, I would just slip a jacket on and
 10 go in. We were not -- we were not really suppression.
 11 Q When you were on-call or standby, was there a territorial
 12 requirement? Were you restricted?
 13 A I wouldn't say you were restricted. There was an expectation
 14 that you would stay in the metropolitan -- be in the
 15 metropolitan area. Not the City -- not the City of Battle
 16 Creek, not the City limits, but the metropolitan area. What I
 17 define as the metropolitan area would be the City of Battle
 18 Creek, Leroy Township, Leland Township, Emmett Township,
 19 Pennfield. So that it is a pretty large geographical area
 20 that we would be -- they would be or any of us, would stay in
 21 that metropolitan area. If we, I guess if we crossed a line,
 22 you know, for some reason into Marshall Township for some
 23 reason, nobody said we couldn't, but we pretty much all -- my
 24 expectation was they would be in the metropolitan area and
 25 ready to respond. And I adhered to that same thing. I mean

1 count towards it? It would be rare that we were going to be
 2 counted as part of that. Our role was not -- many times we
 3 weren't trying to get there first.
 4 Q Is there a reason you are not trying to get there first?
 5 A Well, there is an expectation when you get there when somebody
 6 has an emergency, we do something. It is very limited what we
 7 can do. So it's beneficial that we not be the first person
 8 there. We can't affect a rescue. We can't do any
 9 suppression. So, but could we be counted? Yes. But it
 10 wasn't -- it wasn't -- with the two-in, two-out four man
 11 engine companies it was not the norm, it was not part of our
 12 normal operating procedure.
 13 Q When you say you couldn't affect a rescue if you were first
 14 there, is that part of the Battle Creek protocol? What was --
 15 A We didn't -- we didn't carry a SCBA. We carried turnout gear,
 16 but we didn't -- it just, you know, we're not firefighters.
 17 We are chief officers and administrators and there to manage,
 18 not try to be firefighters.
 19 Q When you say "we," that is you and the two Battalion Chiefs?
 20 A Yes.
 21 Q Mr. Holt and Mr. Erskine?
 22 A Yes, the management team.
 23 Q You said you carried some uniform? Some gear?
 24 A We all were assigned a set of turnout gear, which is bunkers,
 25 boots, coat and helmets.

1 we had to try to have a reasonable response time.
 2 Q Did you ever discipline a Battalion Chief, including Mr. Holt
 3 or Mr. Erskine, for not responding timely when they were
 4 on-call?
 5 A No. That was never an issue. Every Battalion Chief that was
 6 ever in that position was very conscientious and took their
 7 job very serious and that was never an issue.
 8 Q Were there any prohibitions when you were on standby or call,
 9 things you couldn't do? We talked about the geographical
 10 restrictions.
 11 A Well, you know, we weren't going to consume alcohol. I mean I
 12 guess we all went -- we all had to be aware of the fact that
 13 we were on-call. I mean we may go outside and mow our lawn or
 14 we may, you know, go out to dinner. We try, you know, but you
 15 still had to keep that radio so you didn't miss an alarm.
 16 Q Was there any requirement that you or the Battalion Chiefs
 17 show up in uniform?
 18 A No. No, we didn't. We would show up in our reasonable attire
 19 that we put on when we got home that night.
 20 Q So when you were on-call, were you restricted in the type of
 21 activities that you would normally engage in?
 22 A Well, I guess depends on what you would call normal. You
 23 know, I had several different Battalion Chiefs who would
 24 respond to me, report to me over the years. I had one that
 25 used to respond from the golf course. He was a golfer and

1 that was his life. He played in a league once a week. On
 2 some occasions, you know, if I wanted to do something that was
 3 going to take me away from being able to do that or they did,
 4 we would cover for each other on occasions. But he was in a
 5 golf league. He played at Binder Park, so, you know, he and I
 6 had a conversation about him playing golf and he did play
 7 golf.

8 Q And that was acceptable to you?

9 A It was acceptable, yes.

10 Q Okay.

11 A I guess we had one that was -- had a horse farm, you know.
 12 And, you know, he would go out, park his car in the field and
 13 bale hay and do some things that, you know, as long as he
 14 monitored the radio, which he did, it was okay.

15 Q And that was while they were on-call or standby?

16 A Yes.

17 Q And who were these fellows?

18 A That was Battalion Chief Ricker was his name and then Mark
 19 Lindower was a very avid golfer and that's what his life was.
 20 And so I tried very hard to be reasonable. I wanted to be
 21 reasonable. As I stated earlier, they were all conscientious
 22 employees. They would never have made it to the level of
 23 micromanagement team if they weren't. They would have never
 24 made it there. So I didn't want to micro manage their life
 25 because of this. So and I took them to all be reasonable

1 micromanager. I mean I never had anybody in that role of any
 2 of the Battalion Chiefs I had that I didn't fully trust.

3 Q You gave them latitude in performing their job?

4 A Absolutely.

5 Q Can we take a five minute break? I'm almost through.

6 MR. ALVAREZ: Sure.

7 VIDEO OPERATOR: We're off the record at 11:09 a.m.

8 (At 11:09 a.m. break was taken)

9 (At 11:19 a.m. proceedings reconvened.)

10 VIDEO OPERATOR: We're on the record at 11:19 a.m.

11 BY MR. KRETER:

12 Q Did you ever discuss with Mr. Holt or Mr. Erskine the 53 hour
 13 shift, also referred to as 24/48 versus the 40 hour standby
 14 on-call shift?

15 A Well, we had that conversation prior to them taking this job.
 16 I wanted them to clearly understand the role and
 17 responsibilities they were getting into. They were both aware
 18 of what a 53 hour job was. And they as a 53 hour Battalion
 19 Chief, they were both there when we had 53 hour Battalion
 20 Chiefs. They were aware of that role. They had both worked
 21 53 hour shifts prior to becoming -- being promoted into this
 22 job. So we had discussion -- I had discussion with both of
 23 them that, you know, this is going to be different. It's, you
 24 know what I mean. Especially when you compare what they were
 25 expected to do compared to 53 hour Battalion Chief. They had

1 employees and take what they were doing very seriously, you
 2 know. I mow 9 acres of lawn at home, and every week I am
 3 on-call if my lawn needed mowing I had to go out and mow it.
 4 But I carried a radio with me and, you know, I may move my car
 5 as close as I could to that area so I can get off the tractor
 6 and get in the car and respond. I would take my portable
 7 radio with me as well as keep my pager on alert so I didn't
 8 miss an alarm. None of us wanted to miss an alarm.

9 Q Do you believe that being on standby was so onerous that it
 10 prevented you from effectively using your time for personal
 11 pursuits?

12 A No, it was not. I was on-call for many years. And, you know,
 13 no, I didn't -- I did not.

14 Q Did Mr. Holt or Mr. Erskine ever make any complaints to you
 15 about standby or being on-call?

16 A No, they did not. They were very dedicated, loyal employees.
 17 No, they did not.

18 Q You talked about you didn't want to micromanage their lives
 19 when they were on-call or standby, did you micromanage their
 20 jobs as Battalion Chiefs?

21 A Well, I sure hope I didn't. I am a hands-on person, but I
 22 sure hope that I wasn't viewed as a micromanager. And I had
 23 plenty of things to do myself. My day was quite compact. I
 24 mean I probably worked an average of ten hours a day, not
 25 eight hours a day. So I sure hope I wasn't viewed as a

1 much more -- they had much more time in doing management
 2 things and things of that nature. But I also -- also, you
 3 know, wanted to clearly make sure that they understood the
 4 on-call was there. And there was never any opposition to it.
 5 I think sometimes they both enjoyed it, you know, the
 6 scheduling. We got to be home at night that we were on-call.
 7 But I think they both took their roles seriously and I think
 8 they both enjoyed having that opportunity.

9 Q When there was a potential conflict, if you were on-call and
 10 you have to be out of town, for example, how would that be
 11 handled?

12 A Well, if we had -- I think we were all very dedicated at
 13 trying to fulfill our cycle. But things do come up that, you
 14 know, we can't sometimes can't change. If somebody had to go
 15 out of town or somebody had something to do. And let's say it
 16 was me, you know, I would make them aware. And either one of
 17 the two of them would usually step up to the plate and say,
 18 you know, I'll cover for you. If they had something -- I
 19 always told them if they had something come up that they
 20 needed to do, that, you know, if I could help them, I would.
 21 So I would just, you know, cover for them, maybe it would be a
 22 couple hours or whatever the case might be. It didn't happen
 23 a lot. We all just pretty much took our turn and tried not to
 24 imposition anybody else when it wasn't. But there was a
 25 mutual understanding. And I will say that both Battalion

1 Chief Holt and Erskine were very generous to say, you know,
 2 I'm good, I can help you out or they would help each other
 3 out.
 4 Q Thank you. I have no further questions.
 5 EXAMINATION
 6 BY MR. ALVAREZ:
 7 Q You indicated that this standby week on/week off started back
 8 in 2004?
 9 A I can't tell you exactly the year. I can't -- I can't -- I
 10 can't give you an exact date. I think I made that clear
 11 there. I can't tell you for sure what year it was.
 12 Q That's fine.
 13 A I don't know for sure. I can't. I'm sorry. I can't go back
 14 that far.
 15 Q That's fine. And you indicated though that one of the reasons
 16 for the switch was financial issues that were occurring at the
 17 City of Battle Creek at the time?
 18 A Yeah. Things were in a downturn. We had, you know, Kellogg's
 19 had, you know, had left Battle Creek. Our budgets were all
 20 being compressed a little bit.
 21 Q So going from the 53 hour work schedule to the standby time
 22 that you have now, where it's one week on, one week off or
 23 however it is, I think you had a three week cycle?
 24 A Three week cycle and that I was included in.
 25 Q That saved the City money?

1 b -- to answer any response that they needed to have?
 2 A That's -- yeah, they had to be there to respond, yes.
 3 Q During those 24 hours that a Battalion Chief was on-call
 4 during that previous scheduling --
 5 A In the 53?
 6 Q Under the 53.
 7 A Okay.
 8 Q Yes. The Battalion Chief stayed at the firehouse, correct?
 9 A That's where he slept. Yes. He had an office at Station 1195
 10 East Michigan Avenue. His down time was there, yes.
 11 Q And the Battalion Chief could cook a meal, could watch TV,
 12 could go out to dinner?
 13 A Yes. Could go home if they lived within a reasonable
 14 proximity, yes.
 15 Q Okay. Could go play golf?
 16 A No.
 17 Q Could -- well, we said they could go to dinner, but they got
 18 paid for that 24 hours regardless, right?
 19 A Yes, they did.
 20 Q They weren't paid only if they responded to a fire?
 21 A No.
 22 Q And once the fire department switched over to the standby
 23 schedule, a Battalion Chief who was on-call after the normal
 24 business hours of 5 o'clock you said, didn't have to be at the
 25 fire station, correct?

1 A Yes. Absolute -- well, we did not -- we used to have three
 2 Battalion Chiefs. We went down to two Battalion Chiefs, that
 3 saved the City money, yes. And then there wasn't, when we had
 4 53 hour Battalion Chiefs, there was a mandatory overtime
 5 schedule in there. So we saved money there, yes. It was --
 6 it was part of it was financial and part of it was there was
 7 some restructuring going on City-wide.
 8 Q But the City saved money in not having to pay overtime or at
 9 least less overtime than it did over the previous schedule,
 10 correct?
 11 A Yes.
 12 Q Okay. And during the 53 hour schedule, you said that a
 13 Battalion Chief was on-call, was on duty for 24 hours, had 48
 14 hours off and then was again on for 24 hours, correct?
 15 A A shift, B shift, C shift, yes.
 16 Q Was the Battalion Chief paid for that entire 24 hour shift?
 17 A Yes.
 18 Q Was he paid for those 48 hours in between?
 19 A No.
 20 Q For those 48 hours in between, the Battalion Chief wasn't on
 21 duty, wasn't on-call and could do whatever they wanted for
 22 those 48 hours?
 23 A Yes. That was their days off.
 24 Q While the Battalion Chief was on duty for 24 hours though,
 25 they had to stay at the firehouse, they had to stay close to

1 A Correct.
 2 Q They could be at home?
 3 A Yes.
 4 Q They could have dinner at home. They could watch TV at home.
 5 They could do all the things that they were doing at the fire
 6 house, but at home?
 7 A That's right. That's correct.
 8 Q But they didn't get paid for those hours that they were
 9 waiting?
 10 A They received a stipend for that time that they were on-call.
 11 Q And how much was that stipend?
 12 A I can't -- I cannot remember.
 13 Q But they'd get paid for every hour that they were on standby?
 14 A No, they did not.
 15 Q You said that -- I think what you said was that a Battalion
 16 Chief is not a firefighter, correct?
 17 A That's correct.
 18 Q Okay. So could I become a Battalion Chief? I have a law
 19 degree. I have a four year degree. I know how to administer
 20 stuff.
 21 A Under Act 78 you can't, no.
 22 Q Why is that?
 23 A It has to come up through the -- you have to have two years in
 24 the next lower rank in the fire department.
 25 Q Could I be a Fire Chief?

<p>1 A You could be hired from the outside as a Fire Chief, yes.</p> <p>2 Q And as a Fire Chief, could I respond to a call and be part of</p> <p>3 the two-in, two-out?</p> <p>4 A Not just coming off the street you could not, no.</p> <p>5 Q Because I would need to have training as a firefighter?</p> <p>6 A That's correct.</p> <p>7 Q So a Battalion Chief is a firefighter?</p> <p>8 A Well --</p> <p>9 Q Yes or no?</p> <p>10 A They're not part of the -- I guess you're splitting hairs</p> <p>11 here.</p> <p>12 Q I am not splitting hairs.</p> <p>13 A They are not a firefighter, no. They are a Battalion Chief.</p> <p>14 Q Are they trained to fight fires?</p> <p>15 A Yes, sir.</p> <p>16 Q Could they count as one of the persons of two-in, two-out?</p> <p>17 A They can.</p> <p>18 Q Did they have their equipment in order to be able to fight a</p> <p>19 fire when they responded?</p> <p>20 A They had the turnout gear, yes. They did not have an SCBA.</p> <p>21 They would have to -- let me answer the question.</p> <p>22 Q Sure.</p> <p>23 A They would have to secure an SCBA. They did not carry all the</p> <p>24 equipment they needed.</p> <p>25 Q Are the SCBAs on the fire engines?</p>	<p>1 fighting fires?</p> <p>2 A No.</p> <p>3 Q Correct?</p> <p>4 A No, absolutely not.</p> <p>5 Q Okay.</p> <p>6 A They do --</p> <p>7 Q When you were Fire Chief, could you predict when there was</p> <p>8 going to be a structure fire?</p> <p>9 A No.</p> <p>10 Q Could you predict when there was going to be a multiple</p> <p>11 vehicle accident?</p> <p>12 A No.</p> <p>13 Q Could you predict when there was going to be a hazardous</p> <p>14 material spill that would require a response?</p> <p>15 A No.</p> <p>16 Q And so because you couldn't predict, that was the purpose of</p> <p>17 having the radio, the pager and someone on duty or on-call to</p> <p>18 respond, correct?</p> <p>19 A Yes.</p> <p>20 Q So even if you could go out to dinner, even if you could go</p> <p>21 play golf, even if you could mow your lawn, you still had to</p> <p>22 monitor your radio or monitor for an all call -- all stations</p> <p>23 call, correct?</p> <p>24 A If I was on -- if I was the Duty Chief, yes.</p> <p>25 Q And you said that typically you would -- they would have to</p>
<p>1 A Yes.</p> <p>2 Q Okay. So they could have gotten one?</p> <p>3 A Yes.</p> <p>4 Q And they could fight a fire if necessary?</p> <p>5 A Yes.</p> <p>6 Q So they are firefighters?</p> <p>7 MR. KRETER: I'm going to object. Asked and</p> <p>8 answered.</p> <p>9 BY MR. ALVAREZ:</p> <p>10 Q What do firefighters do when they're on duty?</p> <p>11 A What do they do when they are on duty. Well, their shift runs</p> <p>12 8:00 a.m. to 8:00 a.m. They come in in the morning. They</p> <p>13 thoroughly check their apparatus. They have designated and</p> <p>14 assigned training they have to do on a given day. They have</p> <p>15 house duties they have to do on a given day. Then --</p> <p>16 Q What are house duties? I'm sorry.</p> <p>17 A Cleaning of the station, mowing of the lawns, washing the</p> <p>18 windows, maintaining the apparatus. Light maintenance around</p> <p>19 the station. Painting the facilities.</p> <p>20 Q So does -- a firefighter doesn't or isn't fighting fires the</p> <p>21 24 hour shifts that they are there?</p> <p>22 A No, absolutely not.</p> <p>23 Q What are they there for?</p> <p>24 A Standby.</p> <p>25 Q Okay. And so the majority of the time isn't really spent</p>	<p>1 respond within seven to ten minutes to a structure fire,</p> <p>2 correct?</p> <p>3 A Yes.</p> <p>4 Q And --</p> <p>5 A Didn't have to. I said that was about the average response</p> <p>6 time. I didn't say "have to."</p> <p>7 Q Okay. Was there a -- was there a requirement for the amount</p> <p>8 of response time?</p> <p>9 A No.</p> <p>10 Q Could they take an hour?</p> <p>11 A No.</p> <p>12 Q Fire Chief Schmaltz in his deposition testimony testified that</p> <p>13 under fifteen minutes was what he considered a reasonable</p> <p>14 response time.</p> <p>15 MR. KRETER: I'm going to object. I think that</p> <p>16 mischaracterizes his testimony. But you may answer.</p> <p>17 BY MR. ALVAREZ:</p> <p>18 Q Is that reasonable, fifteen minutes?</p> <p>19 A Well, I guess if you were -- if you happened to be out in Fort</p> <p>20 Custer and the report of structure fire was on Capital Avenue,</p> <p>21 Southwest, I guess I would say that was probably reasonable.</p> <p>22 Q How far away is that? I'm not familiar with the area.</p> <p>23 A That's probably about a good eight miles.</p> <p>24 Q Okay. So then you have to be -- so you consider it reasonable</p> <p>25 to have to be within ten miles of any incident?</p>

1 A I don't -- I don't know what the mileage would be, you know.
 2 Q So time-wise, fifteen minutes is reasonable?
 3 A Well, I'm not -- I didn't have an expectation there was going
 4 to be a time. I know where Battalion Chiefs lived, you know.
 5 And there's times, even from my house to the fire, to the City
 6 is, you know, depending on traffic and weather conditions and
 7 whatever. I didn't -- I didn't have -- I never put a time on
 8 it.
 9 Q Whenever you had to respond, were you ever more than ten
 10 minutes late or ten minutes from a structure fire?
 11 A Was I ever more than ten minutes from a structure fire? Oh,
 12 absolutely.
 13 Q So you would respond later than ten minutes?
 14 A Yeah. There's places I couldn't get in ten minutes.
 15 Q What about longer than fifteen minutes?
 16 A I doubt that I was ever longer than fifteen minutes, but I
 17 guess if it was -- there was a snow storm, I guess I could
 18 have been. There is extenuating circumstances.
 19 Q And isn't it true that neither Mr. Holt or Mr. Erskine were
 20 more than ten minutes from any structure fire response?
 21 A I don't know as I could say that. I don't think Marty could
 22 get from where he lived into the City in ten minutes.
 23 Q What about fifteen minutes?
 24 A I think fifteen minutes would be possibly doable.
 25 Q So fifteen minute response time is reasonable?

1 A Yes.
 2 Q Did he play golf outside of the City of Battle Creek?
 3 A Yeah, it was in Newton Township.
 4 Q And how far -- how far away was that?
 5 A Outside the City. Roughly 3 miles.
 6 Q Would he still have been able to respond within the fifteen
 7 minute response time?
 8 A I believe so, if he knew where it was at, yes. The golf
 9 course is in Howard's front yard.
 10 Q And you said that you had 9 acres of lawn that you used to
 11 mow?
 12 A I still do.
 13 Q Isn't it true that your wife would mow the lawn quite often?
 14 A No, my wife has never mowed the 9 acres with a 14-foot mower.
 15 Q So if we called her to testify --
 16 A My wife might have mowed the lawn prior to 2013 occasionally,
 17 yes, but never -- never the 9 acres, because I have a 14-foot
 18 mower and a large tractor and she won't do it.
 19 Q Okay. So when you were on the standby system --
 20 A I wish she would.
 21 Q So when you were on the standby schedule --
 22 A Yes.
 23 Q -- there were occasions when your wife had to mow the lawn?
 24 A No.
 25 Q Never?

1 A Well, yeah. I guess it's not going to be -- it's not going to
 2 be reasonable in my mind if they are in their office and they
 3 are going four blocks away.
 4 Q Of course. Isn't it true that the department actually went
 5 back to a three man engine in either 2008 or 2011 when they
 6 had to renegotiate the contract with the fire department with
 7 the firefighters?
 8 A In '11? I'm not going to say what year it was. I guess
 9 that's possible, but I don't remember. I didn't think it was
 10 that early.
 11 Q And so if they -- if they did go back to a three man engine,
 12 then the Battalion Chief responding to a call would count as
 13 the fourth person in the two-in, two-out?
 14 A If they were the fourth person there. If they got there
 15 before another engine company, they could be counted. But
 16 they're going to have to get out of the car, put the
 17 appropriate gear on and like a SCBA on. And I very seriously
 18 doubt that ever happened.
 19 Q Do you know if it ever happened with either Mr. Holt or
 20 Erskine?
 21 A I don't factually know, no.
 22 Q Now, you mentioned that one of your Battalion Chiefs played
 23 golf.
 24 A Um-hum.
 25 Q And were you okay with him playing golf?

1 A No.
 2 Q So if we were to call her to testify she would say never?
 3 A Had to mow the lawn?
 4 Q Yes.
 5 A No, not because I was on-call.
 6 Q Okay.
 7 A No.
 8 Q Now, you also said that -- that in your opinion the
 9 restrictions, the mileage restrictions, the time restrictions
 10 and what you can and cannot do with your radio or your pager
 11 were not so onerous that you couldn't use your free time for
 12 personal pursuits. You said that it wasn't?
 13 A For me it wasn't, no.
 14 Q Okay. Would your wife say the same thing?
 15 A I'm sure she would.
 16 Q Okay.
 17 A I'm not going to speak for her, but.
 18 Q Did your wife ever complain to you about the fact that you had
 19 to be on-call?
 20 A My wife never complained.
 21 Q You've been married for a long time, correct?
 22 A Fifty-one years.
 23 Q Fifty-one years. So your wife is used to the life that you
 24 had as a firefighter?
 25 A Yes. Yes.

1 Q Okay.
 2 A She sure is not anymore. She might wish I would go back.
 3 That's okay to put that on the record.
 4 Q When you mentioned earlier about having to respond to an all
 5 station call, it's not just structure fires that they respond
 6 to, right? They also have to respond to multiple vehicle
 7 accidents and hazardous material incidents?
 8 A No. It was not an expectation when I was the Chief that they
 9 respond to those things. We responded to structure fires.
 10 Q Only structure fires?
 11 A Only structure fires was the expectation. Not multi-vehicle.
 12 We had Captains and Lieutenants who run those. Only time we
 13 respond to those is if they were requested. I had no
 14 expectation that they respond to those type of accidents when
 15 I was the Chief.
 16 Q Okay. Do you know if they responded though?
 17 A I think probably from time to time during the day if Battalion
 18 Chief Holt was in the area he probably would respond.
 19 Q Could they respond if they wanted to?
 20 A When they were on-call?
 21 Q Yes.
 22 A Well, as I stated, if they wanted to, yes.
 23 Q Okay.
 24 A If --
 25 Q It wasn't an expectation, but they could respond if they

1 CERTIFICATE
 2 STATE OF MICHIGAN)
 3)
 3 COUNTY OF BARRY)
 4 I certify that this transcript consisting of 51
 5 pages, is a complete, true and correct record of the testimony
 6 of LARRY HAUSMAN held in this case on August 9, 2018.
 7 I also certify that prior to taking this deposition,
 8 LARRY HAUSMAN was duly sworn to tell the truth.
 9
 10 August 10, 2018
 11 _____
 12 Signature
 13
 14 MARY B. HOWLAND, CSR0078, CM
 15 141 East Michigan, Suite 206
 16 Kalamazoo, Michigan 49007
 17 1-800-878-8750
 18 My commission expires:
 19 5/12/2019
 20
 21
 22
 23
 24
 25

1 wanted.
 2 A If they see a need. I wasn't going to second guess their
 3 decision.
 4 Q No more questions.
 5 FURTHER EXAMINATION
 6 BY MR. KRETER:
 7 Q How often when you were on standby or call did you respond to
 8 multi-vehicle accidents?
 9 A I don't think it was once a year.
 10 Q And do you have any knowledge if either Mr. Holt our
 11 Mr. Erskine responded more than that during your tenure as
 12 Chief when they were on-call?
 13 A I don't think they did, but I really can't speak to the fact
 14 what Battalion Chief Holt always did during the day. I mean
 15 he was out and about. So, but as far as when they were
 16 on-call, I would say probably not, no, when I was the Chief,
 17 no.
 18 Q Thank you. I have no further questions.
 19 MR. ALVAREZ: We're good.
 20 VIDEO OPERATOR: We're off the record at 11:41 a.m.
 21 End of deposition.
 22 (At 11:41 a.m. deposition concluded.)
 23 * * * *
 24
 25

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